IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 18983 of 2003(I)

PETITIONER:

THE KIZHATHADIYOOR SERVICE CO-OP.BANK
LTD. NO.1955, PALA REP.BY ITS SECRETARY-IN-CHARGE
PHILOMINA MATHEW, W/O. SEBASTIAN, AGED 47 YEARS,
MADACKAL HOUSE, PALA, KOTTAYAM DISTRICT.

BY ADV. SRI.P.C.HARIDAS

RESPONDENTS:
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1. STATE OF KERALA, REP.BY ITS CHIEF
SECRETARY TO THE GOVT., GOVT.SECRETARIAT,
TRIVANDRUM.

2. THE ARBITATOR/SPECIAL SALE OFFICER,
KIZHATHADIYOOR SERVICE CO-OPERATIVE BANK LTD.
NO.1955, PALAI, KOTTAYAM DISTRICT.

3. KERALA CO-OPERATIVE TRIBUNAL,
TRIVANDRUM, REP.BY ITS SECRETARY.

4. BIJOE CHERIAN, KIZHAKKEL HOUSE,
KOODALLOR KARA, KIDANGOOR VILLAGE, MEENACHIL
TALUK, KOTTAYAM DISTRICT.

5. T.M.SEBASTIAN, THOTTATHIL HOUSE,
EDAPPADIKKARA, LALAM VILLAGE, MEENACHIL TALUK,
KOTTAYAM.

R1 TO R3 BY GOVT.PLEADER SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A.NO. 5083 OF 2003 IN WPC 18983 OF 2003

DISMISSED

6.3.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE VENKATAPATHRAM EXECUTED BY RESPONDENTS 4 AND 5

EXT.P2 TRUE COPY OF THE AWARD DATED 24.3.2003 OF THE THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 18983 OF 2003

Dated this the 6th day of March, 2007

JUDGMENT

Even though petitioner's contention is that Tribunal has no authority to reduce contract rate of interest which is supported by Division Bench judgment of this Court in WPC 25478 of 2003 dated 5.10.2004, I feel there is a case for the Bank itself to reduce the interest and permit the borrowers to settle liability as it is an old loan and rate of interest charged is as high as 17%. In the circumstances, O.P. is disposed of directing the Bank to place the case of respondents 4 and 5 before the managing committee (Board of Directors) for granting OTS benefit to respondents 4 and 5. However, if respondents 4 and 5 do not settle liability even after grant of incentives under the OTS scheme, within two months from now, then there will be direction to the Tribunal to reconsider the decision on interest after issuing notice to the petitioner based on Division Bench judgment. Bank will at the earliest communicate incentives granted by the Board of Directors to respondents 4 and 5 for settling the liability and to avoid unnecessary

litigation and only if they commit default, the Bank should pursue the litigation before the Tribunal.

(C.N.RAMACHANDRAN NAIR)
Judge